

Module 4: Legal And Other Requirements

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GUIDANCE

The Legal Framework for your EMS—Familiar Territory

Most likely you already have some form of EMS and its most mature element is probably its attention to compliance with laws and regulations that relate to your facility. Since you probably know most of what you need to about your **legal requirements** and **how they affect** what you do, let's begin on this familiar territory and build from there.

Compliance with legal requirements is one of the main pillars upon which your environmental policy should be based since the potential costs of non-compliance (possible damage to the environment, revenue loss and impact on public image, for example) can be very high.

An effective EMS will build on what you already have and should include processes to:

- identify and communicate applicable legal and other requirements; and
- ensure that these requirements are factored into the organization's management efforts.

Legal requirements include, but are not limited to:

- Federal requirements
- State and local requirements
- Permit conditions

Other requirements might include:

- Industry codes of practice
- Pledges or commitments made voluntarily by your company

New or revised legal requirements might require modification of your environmental objectives or other EMS elements. By **anticipating new requirements** and making changes to your operations, you might avoid some future compliance obligations and their costs.

Getting Started

Identifying applicable regulations, interpreting them, and determining their impacts on your operations can be a time-consuming task. Fortunately, there are many sources for obtaining information about applicable laws or regulations. These sources include:

- commercial services (with updates offered on-line, on CD-ROM, or in paper form);
- regulatory agencies (federal, state and local);
- trade groups / associations;
- the Internet (see EPA web site at <http://www.epa.gov>);
- public libraries;
- seminars and courses;
- newsletters / magazines;
- consultants and attorneys; and
- customers, vendors and other companies.

Tool 4-4, provides a list of **Information Resources for Legal Requirements**. This will help you with the identification and tracking of Legal Requirements.

Tool 4-1, Legal and Other Requirements Worksheet, provides a tool you can use to start considering how you will undertake this EMS area. **Tool 4-2, Sample Worksheet for Identifying Legal Requirements**, provides a format for documenting your legal requirements.

For your EMS, you should have a **formal procedure** in place that documents how you will **identify**, have **access to**, and **analyze** applicable legal and other requirements. **Tool 4-3, Sample Procedure for Identification of Legal and Other Requirements** provides a starting point for your procedure. **Form 4-3, Sample Form for Legal and Other Requirements**, provides a sample form that can be used with Tool 4-3.

An example list of commonly applicable federal environmental laws in the U.S. is presented in **Example 4-1**. However, it is not a complete list of all environmental laws; it is an example list of commonly applicable laws.

Once the applicable environmental requirements have been identified and adopted into the appropriate operations, **communicate** these requirements (and methods for complying with them) to employees, on-site contractors and others, as needed. Communicating “other requirements” (as well as their influence on the organization) is an important but often overlooked step. Keep in mind that different people may have different information needs; for example, operational personnel may need to understand waste consolidation and accumulation requirements for different waste streams generated in their areas, while the environmental manager will need to know waste analysis, labeling, and transportation requirements for hazardous waste.

As with many EMS elements, this is **not a “one time” activity**. Because legal and other requirements change over time, your procedure should include a means to ensure that you are working with up-to-date information.



TOOLS

Tool 4-1: Legal and Other Requirements Worksheet

To begin the process of identifying applicable regulations and to help determine their impacts on your operations, it will be helpful to keep a list of answers to the questions in this tool for current use and future reference.

Do we have an existing process for identifying applicable legal and other requirements? If yes, does that process need to be revised? In what way?	
Who needs to be involved in this process within our organization? What should their responsibilities be?	
What sources of information do we use to identify applicable legal and other requirements? Are these sources adequate and effective? How often do we review these sources for possible changes?	
How do we ensure that we have access to legal and other requirements? (List any methods used, such as on-site library, use of web sites, commercial services, etc.)	
How do we communicate information on legal and other requirements to people within the organization who need such information?	
Who is responsible for analyzing new or modified legal requirements to determine how we might be affected?	
How will we keep information on legal and other requirements up-to-date ?	
Our next step on legal and other requirements is to ...	

Tool 4-2: Sample Worksheet for Identifying Legal Requirements

MEDIA OR REGULATORY ACT	PLANS/ PERMITS	SOURCES/ DISCHARGES	KNOWLEDGE OF REGULATIONS (Low, Med, High)	ASSOCIATED MANAGEMENT PROCEDURES
CAA				
CWA NPDES (outfalls and/or stormwater)				
RCRA Our Generator Status:				
SDWA (UIC)				
WETLANDS				
FIFRA				
EPCRA				
CERCLA or State Cleanup				
TSCA (PCBs)				
UST				
OTHERS (list as appropriate)				

Tool 4-3: Sample Procedure for Identification of Legal and Other Requirements

The following is a sample procedure for the identification of legal and other requirements that incorporates the principles presented in this Guide.

Purpose

[Your Facility's Name] is committed to complying with all applicable environmental regulations. It also will strive to meet other commitments made in its environmental policy, such as commitments to community involvement, pollution prevention, and continuous improvement. This procedure describes how [Your Facility's Name] identifies applicable legal and other requirements.

Procedure

1. The Environmental Management Representative (EMR) is responsible for tracking applicable environmental laws and regulations and evaluating their potential impact on the facility's operations. He or she employs several techniques to track, identify, and evaluate applicable laws and regulations. These techniques include commercial databases, information from the trade association, direct communication with national and state regulatory agencies, and periodic refresher training on environmental laws.
2. As necessary, the EMR may call upon off-site resources such as consultants or attorneys.
3. The EMR compiles and maintains updated copies of applicable environmental laws and regulations.
4. The EMR, working with the EMS Coordinator and cross functional team (CFT), correlates these regulations to the business activities and environmental aspects associated with them using **Form 4-3**.

Frequency

Ongoing.

Records

Form 4-3, Legal and Other Requirements, is maintained by the EMS Coordinator. The EMR maintains copies of the applicable regulations.

Form 4-3: Facility Operations:
Sample Form for Legal and Other Requirements

Identification			Production Process					Facility Support							
Category/ Aspect	Legal and Other Requirements	Description	Metal Working and Cutting	Surface Preparation/Blasting	Welding	Surface Coating/Painting	Equipment Cleaning	Purchase of Raw Material	Facility Plant Maintenance	Tank Farm and Fuel Transfer	Chemical and Waste Storage	Administration	Generation of Power, Compressed Air, Steam, and Process Water	Medical Facilities for Employees	All*

Tool 4-4: Information Resources for Legal Requirements

This tool describes a variety of commercial and non-commercial sources of information on federal and state environmental laws and regulations. This list is not intended to be comprehensive. Appearance on this list should not be construed as an endorsement by EPA of any commercial products or services listed below.

Source	Description
EPA Web Site	Provides a variety of information of environmental laws and regulations as well as tools and compliance guidance. (http://www.epa.gov).
EPA RCRA/Superfund/ EPCRA Hotline (1-800-424-9346 or 703-412-9810)	Questions regarding pollution prevention, source reduction, waste management, and disposal may be directed to this hotline. It is staffed by Booz Allen & Hamilton Inc., under contract to EPA. The Hotline answers factual questions about EPA regulations and programs under RCRA, Superfund, and EPCRA.
EPA Small Business Ombudsman (1-800-368-5888)	Regulatory explanations and guidance, research, case studies, contacts for additional information. Variety of hotlines available for particular statutes (such as RCRA). Internet access also available (http://www.epa.gov/sbo).
Small Business Assistance Programs (various states) and Other State Agencies	Guidance on regulations and compliance issues. Initially these focused on Clean Air Act requirements, but they are expanding into other environmental media.
U.S. Small Business Administration	Various services available to small businesses in the U.S. (http://www.sba.gov)
U.S. Government Printing Office (202-512-1800)	Federal Register published daily with all federal proposed and final rules. (Also available on line via <i>GPO Access</i> , search for GPO Access)
Trade and Professional Associations	Trade associations provide a variety of services related to environmental laws and regulations, including regulatory updates and training.
Counterpoint Publishing (1-800-998-4515)	CD-ROM and Internet dial-up access to legal / regulatory information for federal government and all 50 states, updated daily.
Bureau of National Affairs (1-800-372-1033)	Information on environmental, health and safety laws, regulations and activities at international, national and state level. Paper and electronic access available.
Thompson Publishing Group (1-800-677-3789)	Manuals on a variety of federal and state environmental programs with monthly updates and newsletters.
Business & Legal Reports, Inc. (1-800-727-5257)	Access to federal and state regulations with monthly, updates on available on CD-ROM.
Aspen Law and Business (1-800-638-8437)	Publishes compliance manuals with regular update service for Resource Conservation and Recovery Act and the Clean Air Act.



EXAMPLES

Example 4-1: Commonly Applicable Federal Environmental Laws in the U.S.

Clean Air Act (CAA) [40 CFR Parts 50-99] <ul style="list-style-type: none">• Title V air permits and/or follow the standards for hazardous air pollutants under the NESHAP• state air permits	Establishes ambient and source emission standards and permit requirements for conventional and hazardous air pollutants.
Clean Water Act (CWA) [40 CFR Parts 100-145, 220-232, 410-471]	Establishes ambient and point source effluent standards and permit requirements for water pollutants, including sources that discharge directly to a water body or to a public sewer system. Also includes storm water management requirements.
Resource Conservation and Recovery Act (RCRA) [40 CFR Parts 240-299]	Establishes regulations and permit requirements for hazardous waste management. Also, creates standards for underground storage tanks that hold oil or hazardous substances.
Toxic Substances Control Act (TSCA) [40 CFR Parts 700-799]	Regulates the use, development, manufacture, distribution and disposal of chemicals. Certain chemicals [such as polychlorinated biphenyls (PCBs)] are subject to specific management standards.
Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as "Superfund") [40 CFR Parts 300-311]	Establishes a program for cleaning up contaminated waste sites and establishes liability for clean-up costs. Also, provides reporting requirements for releases of hazardous substances.
Emergency Planning and Community Right-To-Know Act (EPCRA) [40 CFR Parts 350-374]	Establishes a program (also known as the "Toxic Release Inventory") to inform the public about releases of hazardous and toxic chemicals. Reporting requirements apply to companies that use, process or store specific chemicals over specified quantities.
Hazardous Materials Transportation Act (HMTA) [49 CFR Parts 100-180]	Establishes standards for the safe transportation of hazardous materials.